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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/725,466

12/03/2003

Farzan Mamaghani

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EXAMINER

MEKY, MOUSTAFA M

ART UNIT

PAPER NUMBER

2157

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/725,466

Applicant(s)

MAMAGHANI ET AL.

Examiner

Moustafa M. Meky

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 43-65 is/are pending in the application.
- 4a) Of the above claim(s) 59-65 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 50-65 is/are allowed.
- 6) ☒ Claim(s) 43,44 and 46-49 is/are rejected.
- 7) ☐ Claim(s) 45 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/27/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 43-58 are presenting for examination.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 43-44 & 46 are rejected under 35 U.S.C. 102(a) as being anticipated by Chiussi (US Pat. No. 5,905,711).
4. As to claim 43, Chiussi shows in Figs 1 & 3, an end-user terminal (one of the data sources 1-n) comprising a processor (not shown in the Figs) and a memory (not shown in the Figs) in which the terminal would receive a command (in the form of RM sell) from a communication network (represented by the switch 1, see col 2, lines 19-20) to change a rate at which the terminal sends information in response to the command, see col 2, lines 29-31, 38-42, col 3, lines 18-21, col 5, lines 4-9, lines 19-21, col 6, lines 49-50, col 7, lines 9-11.
5. As to claim 44, the command is to originate from a network status manager (switch 1) in the network, see the abstract, lines 14-16, col 2, lines 19-31, lines 38-42.
6. As to claim 46, the network status manger (switch 1) generates the command based on quality of service requirement and a performance of the network, see the abstract, lines 14-16, col 2, lines 19-31, lines 38-42.

Therefore it can be seen from paragraphs 4-6 that Chiussi anticipates claims 43-44 & 46.

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7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 47-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chiussi.

9. As to claims 47-49, Chiussi shows in Figs 1 & 3, an end-user terminal (one of the data sources 1-n) as been discussed in paragraph 4. Chiussi does explicitly reveal the types of the terminals and it appears that the system of Chiussi is not limited to a specific terminal i.e the system of Chiussi has the capability to deal with any kind of terminal. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the system of Chiussi to include different terminals such as wireless telephone or pda or computer in order to provide more flexibility to the user (the user would be able to use either a wireless telephone or pda and/or a computer).

Therefore, it can be seen from paragraph 9 that the modified system of Chiussi teaches the limitations of claims 47-49.

10. Claim 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10.1. The prior art of record does not teach that the command is to identify a type of information that the terminal either is or is not permitted to send to the network.

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11 Claims 50-58 are allowed over the prior art of record.

11.1. The prior art of record does not teach an end-user terminal for receiving a command from a communication network and to free network resources from preferred information by slowing, in response to the command, a rate at which non-preferred information is sent to the network.

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Moustafa M. Meky whose telephone number is 703-305-9697. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne Burgess can be reached on 703-305-4792. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MMM
4/30/2006


MOUSTAFA M. MEKY
PRIMARY EXAMINER